

**REMARKS**

The Examiner's Action mailed on July 8, 2004, has been received and its contents carefully considered.

In this Amendment, Applicant has amended claim 1. Claim 1 is the independent claim. Claims 1 and 2 remain pending in the application. For at least the following reasons, it is submitted that this application is in condition for allowance.

The Examiner's Action has rejected claims 1 and 2 as being obvious over *Nix* (USP 6,234,858) in view of *Millard* (USP 1,566,801). It is submitted that these claims are patentably distinguishable over the cited references for at least the following reasons.

Applicant's independent claim 1 is directed to a foam modular toy structure which includes a plurality of differently shaped solid components which are fabricated from an elastic foam material. Each solid component has an octagonal through-hole and/or a projecting umbrella-shaped tenon integrally fixed to a neck portion. The tenon of one of the solid components is insertable into the octagonal through-hole of another one of the solid components, by inserting the tenon into one side of a corresponding octagonal through-hole until the neck portion is disposed within the corresponding octagonal through-hole, and the tenon projects from another side of the corresponding through hole, to allow the components to be conjoined into toys. Moreover, an insertional coupling formed by the inserting of the umbrella-shaped tenon into the octagonal through-hole provides for a

rotatably controlled joint application, which allows the components to be articulated at a range of angles, and kept in a fixed position without collapsing due to weight factors. Moreover, the umbrella-shaped tenons can be manually withdrawn from the octagonal through-holes due to the inherent elasticity of the elastic foam material. Thus, in accordance with Applicant's claimed invention, the configuration of the umbrella-shaped tenon and the corresponding octagonal through-hole allows the resulting toy to have sufficient rigidity so that it will not collapse due to weight factors, as might be the case for other configured toys. Further, due to the inherent elasticity of the foam material, the toy can be easily disassembled into its constituent parts. Moreover, since the neck portion is disposed in the hole, and the tenon projects from the hole, the tenon will hold the component firmly in place, without interfering with the articulation of the joint. This claimed configuration is not disclosed or suggested by the cited references.

*Nix* discloses a resilient crushable foam object that is comprised of interchangeable parts. For example, and as shown Figures 11 through 14, this reference discloses a foam elephant 200 in which the rear legs 204, 206, 208 and 210 can be attached to the body portions 214 and 212 utilizing rectangular shaped pins 216 and 218.

However, and in contrast to the present invention, this reference does not disclose or otherwise suggests component parts having umbrella-shaped tenons as recited by claim 1. Instead, and as noted above, the pins 216 and 218 are rectangular shaped, and do not have the umbrella-shape recited by claim 1. As

such, these pins will not hold the resulting toy together with as much rigidity as would Applicant's claimed umbrella-shaped tenons, so that the animal may fall apart due to its own weight, or during play with a child.

Moreover, this reference does not disclose or suggest a projecting umbrella-shaped tenon integrally fixed to a neck portion, as recited in claim 1, not that when the components are joined, the neck portion is disposed within a corresponding octagonal through-hole, and the tenon projects from a side of the corresponding through hole.

The Action also relies on the teachings of *Millard*, which discloses a doll having articulated components, which are joined using the rubber connections 10 and 11. However, as is clear from Figs. 6 and 7, these connections 10 and 11 have their respective enlarged heads inserted within the respective components to be joined, rather than projecting therefrom, as recited in claim 1. As such, these connections 10 and 11 will not hold the components together as well as Applicant's claimed tenons, and will require special recesses be formed in the respective components to accommodate the enlarged heads.

As such, since neither cited reference discloses or suggests inserting a tenon into one side of a corresponding octagonal through-hole until a neck portion is disposed within the corresponding octagonal through-hole, and the tenon projects from another side of the corresponding through hole, to conjoin components together, as recited in claim 1, it is submitted that Applicant's independent claim 1 and dependent claim 2 are patentably distinguishable over

the cited references. It is requested that these claims be allowed and that this rejection be withdrawn.

It is submitted that this application is in condition for allowance. Such action and the passing of this case to issue are requested.

Should the Examiner feel that a conference would help to expedite the prosecution of the application, the Examiner is hereby invited to contact the undersigned counsel to arrange for such an interview.

Respectfully submitted,



September 30, 2004  
Date

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